

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1453

IN THE MATTER OF:

Served August 29, 1975

Application of WASHINGTON AREA)
MINI-BUS TOURS for Temporary)
Authority to Perform Special)
Operations)

Application No. 870

By petition 1/ filed August 18, 1975, The Gray Line, Inc. (Gray Line) seeks reconsideration of Order No. 1449, served August 1, 1975, and denial of Application No. 870 by Washington Area Mini-Bus Tours (Mini-Bus). Gray Line holds extensive sightseeing authority from this Commission.

Gray Line specifies three errors claimed as grounds for reconsideration. First, the Commission's approval of the temporary authority application was patently inconsistent with the statutory requirements for issuance of such authority. Second, the Commission failed to consider the available services. Third, the Commission acted in direct contravention of the Compact and failed to apply its expertise in considering the temporary authority application.

Gray Line argues that there is no rationale to support the Commission's grant of temporary authority. It submits that there has been no showing of an immediate and urgent need for this service which existing carriers are unable to satisfy. Gray Line opines that the grant of temporary authority is improper because it contains no restriction on vehicle size and grants authority to stop within the Arlington National Cemetery area of Arlington County, Virginia. Further, Gray Line contends that the grant of authority is improper because the Commission has failed to protect Gray Line against the transportation activities of Mini-Bus pursuant to temporary authority and as an unauthorized carrier. Gray Line submits that the Commission's approval of the prior unauthorized transportation activities of Mini-Bus will result in diversion of passengers from Gray Line.

1/ The Compact, Title II, Article XII, Section 16 provides that "an application in writing requesting reconsideration" may be filed. The Commission shall consider the petition to be such an application although it was improperly styled.

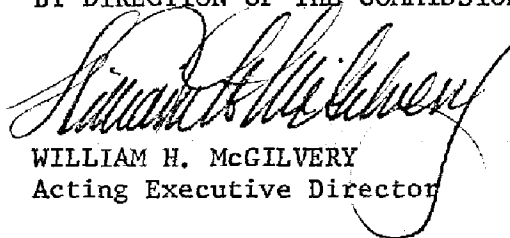
Admittedly, Mini-Bus operates in the same area in which Gray Line operates. Gray Line is authorized, as relevant to this proceeding, to operate over irregular routes in special operations, round-trip, sightseeing or pleasure tours from points within the Metropolitan District, except Dulles International Airport and Alexandria, Virginia, to points in the Metropolitan District. The Commission considered the statements by Mini-Bus in support of its temporary authority application and the current services being rendered by Gray Line and other certificated and non-certificated carriers. The Commission concluded, within the discretion permitted by Title II, Article XII, Section 4(d)(3) of the Compact, that there was an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need. The Commission further believes that there is no necessity of restricting the temporary authority with respect to vehicle capacity or service at Arlington National Cemetery. Such restrictions are properly the subject of a proceeding for a certificate of public convenience and necessity. See Compact, Title II, Article XII, Section 4(b). The temporary authority granted by the Commission enables the provision of service which necessarily is limited to the operations set forth in the Mini-Bus application.

With respect to the contention by Gray Line that it has not been accorded the protections set forth in the Compact, the Commission believes that these provisions are properly the subject-matter of a proceeding for a certificate of public convenience and necessity. See Compact, Title II, Article XII, Section 4(g). Likewise, the determination of revenue diversion is relevant to any certification proceeding. These matters have not been foreclosed by the Commission's grant of temporary authority to Mini-Bus.

The Commission has considered the other matters presented in the petition for reconsideration. They do not warrant action contrary to that which is now directed.

THEREFORE, IT IS ORDERED that the petition for reconsideration of Order No. 1449, served August 1, 1975, filed by The Gray Line, Inc., be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Acting Executive Director